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EXAMINER

CARLSON, JEFFREY D

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/863,921
Filing Date: May 23, 2001
Appellant(s): MITTAL ET AL.

MAILED

AUG 28 2007

GROUP 3600

Mohammad S. Rahman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/29/2005 and supplemental appeal brief filed 6/1/2007 appealing from the Office action mailed 7/13/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0010627	LERAT	1-2002
6076068	DELAPA ET AL	6-2000
6327573	WALKER ET AL	12-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 3-6, 16-32, 42-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerat (US20020010627) in view of DeLapa et al (US6076068).

Lerat teaches electronic coupons that are selected for downloading by users and that may include a parameter of value that is set to decline over time [abstract, ¶ 24]. The collection of coupon parameters (product, type of discount, amount, redemption retailer, etc) is taken to provide the structure of the promotional offer. Lerat teaches that users are identified and their history of shopping and coupon redemption is used to develop behavioral profiles [¶ 47, 80, 81]. Although Lerat teaches that coupons can be personalized for users (and hence, targeted) [¶ 74, 75], Lerat does not appear to select appropriate coupons on behalf of the user. DeLapa et al teaches an electronic coupon system where user purchases are tracked and coupons are selected on behalf of the user's profile [abstract]. It would have been obvious to one of ordinary skill at the time of the invention to have pre-selected coupons for the users and upon their logging into the system, presented (i.e. distributed the records of available targeted coupons for browsing and downloading) such targeted coupons to the users of Lerat. This provides distribution

of targeted offer records, acceptance of selected coupons and determination of a declining value upon acceptance by the user. Delivering and presenting such targeted offers to a user is taken to provide acceptance of the offers by the user and user's system. The starting value is taken to provide a default value. Regarding claim 4, it would have been obvious to one of ordinary skill at the time of the invention to have reduced the value once a day (or other time period) until the offer expires; such provides a predetermined number of value changes. There is no requirement that the user redeem selected coupons and therefore the users are taken to be capable of declining redemption. Regarding claim 19, the price sensitivity of the user will determine whether the user would prefer a discounted product or a higher priced, but otherwise preferable product; this claim is not taken to positively limit the method steps taken. Regarding claim 20, the value can be virtually any amount, including the difference between a preferred brand price and the promoted products price. Further, the claims specify only a value, rather than particular steps which would determine such a value; the particular value of the offer is not taken to provide a patentable distinction. Regarding claim 21, base claim 6 does not positively require a variable offer period and therefore forth details about such a period are likewise not positively required by the claims. A customer's eligibility to redeem an offer is taken to be defined by the targeting of the offer – only certain user(s) can receive and therefore, redeem the targeted offers. Regarding claim 48, Lerat does not appear to specify or limit the type of discount value decay and it would have been obvious to one of ordinary skill at the time of the invention to have provided any reasonable function including linear (x amount per day).

Claims 7-15, 33-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerat in view of DeLapa et al and Walker et al '573 (US6327573).

Regarding claim 7, Walker et al '573 teaches that user profiles determine different classes of users who can be given different incentive tiers [col 10, 14]. It would have been obvious to one of ordinary skill at the time of the invention to have provided different initial discount values for the coupons of Lerat based upon the user's profile/tier.

Regarding claim 8, Lerat teaches that different manufacturers can provide coupons; this provides targeted coupon offers by different entities able to access the user profiles.

Regarding claim 9, it would have been obvious that entities appropriately and intelligently assign a discount value in order to provide an effective coupon campaign, rather than give products away at a loss that would be a bad decision for the company business.

Regarding claim 15, the behavioral information is taken to be met by the purchasing and redemption history of the user.

(10) Response to Argument

Applicant argues that Lerat does not teach that the offer itself comprises a declinable value once the variable parameter is defined. The disclosure in Lerat [¶ 24] that “the system provides discounting rules allowing a manufacturer to create a coupon whose characteristics vary over time (or any other parameters), such as a digital coupon whose value decreases over time” is taken to provide a record of the coupon offer – i.e. a rule that controls the variable parameter of value. Lerat's ¶ 69 states that the value can be based on the time to live” of the coupon which is taken to provide a teaching where the value

continually decreases based upon its expiration date; this provides is a value, even when accepted at the user's computer for display, that is taken to be a starting value defined upon acceptance.

Applicant argues that the instant invention can be presented for redemption and the parameters can be set at that time. While defining a declining parameter of the offer's value at the time of redemption seems somewhat pointless (given that there appears to be no time left for the offer to actually decline in value), the example is beyond the scope of the present claim language. Applicant's ability of relying on an "updated" profile does not seem to be represented in the claim, yet Lerat does provide targeted offers based on current/updated user profiles. Applicant claims no particular profile-based activities that may occur after a user possesses a coupon and before he redeems it.

Applicant argues that Lerat's characteristic that varies (over various parameters such as time) is not the same as a variable parameter. Examiner disagrees. Lerat's declining value is taken to be a parameter which varies. Applicant argues that the instant invention is able to be personalized to individuals. The combination set forth by examiner provides customized offers.

Applicant argues the claim language that the users "can decline to redeem the offer". There is no particular claimed method step or structure pointed out which Lerat lacks. The users of Lerat are *capable* of not using their targeted offers. This capability of Lerat meets the broad claim language. Examiner need not state that it would have been obvious to decline an offer, he simply needs to note that the capability exists. Applicant argues that non-redemption may simply represent a delay in redemption. It is further

further noted that such coupon offers have expiration dates and this indicates that users are capable of non-redemption during this time.

Applicant argues that claim 15 cannot be rejected simply on Lerat in view of DeLapa because the base claim 15 required Walker in its rejection. Examiner has corrected this typographic error and has included claim 15 with the group of claim rejected over Lerat in view of DeLapa and Walker.

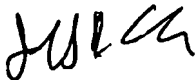
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jeffrey D. Carlson



Conferees:

Eric Stamber



Arthur Duran

